



# Senate

General Assembly

**File No. 260**

February Session, 2008

Substitute Senate Bill No. 334

*Senate, March 31, 2008*

The Committee on Government Administration and Elections reported through SEN. SLOSSBERG of the 14th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

## ***AN ACT CONCERNING CERTAIN RECOMMENDATIONS OF THE OFFICE OF STATE ETHICS.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsection (l) of section 1-79 of the 2008 supplement to the  
2 general statutes is repealed and the following is substituted in lieu  
3 thereof (*Effective from passage*):

4 (l) "Quasi-public agency" means the Connecticut Development  
5 Authority, Connecticut Innovations, Incorporated, Connecticut Health  
6 and Education Facilities Authority, Connecticut Higher Education  
7 Supplemental Loan Authority, Connecticut Housing Finance  
8 Authority, [Connecticut Housing Authority] State Housing Authority,  
9 Connecticut Resources Recovery Authority, Lower Fairfield County  
10 Convention Center Authority, Capital City Economic Development  
11 Authority, Connecticut Transportation Strategy Board and Connecticut  
12 Lottery Corporation.

13       Sec. 2. Subsection (a) of section 1-81 of the general statutes is  
14 repealed and the following is substituted in lieu thereof (*Effective from*  
15 *passage*):

16       (a) The board and general counsel and staff of the Office of State  
17 Ethics shall:

18       (1) Compile and maintain an index of all reports, advisory opinions,  
19 informal staff letters, memoranda issued in accordance with subsection  
20 (b) of section 1-82 and statements filed by and with the Office of State  
21 Ethics to facilitate public access to such reports and advisory opinions,  
22 informal staff letters, memoranda statements as provided by this part;

23       (2) Preserve advisory opinions and informal staff letters,  
24 permanently; preserve memoranda issued in accordance with  
25 subsection (b) of section 1-82 and statements and reports filed by and  
26 with the board for a period of five years from the date of receipt;

27       (3) Upon the concurring vote of a majority of the board present and  
28 voting, issue advisory opinions with regard to the requirements of this  
29 part, upon the request of any person subject to the provisions of this  
30 part, and publish such advisory opinions in the Connecticut Law  
31 Journal. Advisory opinions rendered by the board, until amended or  
32 revoked, shall be binding on the board and shall be deemed to be final  
33 decisions of the board for purposes of appeal to the superior court, in  
34 accordance with the provisions of section 4-175 or 4-183. Any advisory  
35 opinion concerning the person who requested the opinion and who  
36 acted in reliance thereon, in good faith, shall be binding upon the  
37 board, and it shall be an absolute defense in any criminal action  
38 brought under the provisions of this part, that the accused acted in  
39 reliance upon such advisory opinion;

40       (4) Respond to inquiries and provide advice regarding the code of  
41 ethics either verbally or through informal letters;

42       (5) Provide yearly training to all state employees regarding the code  
43 of ethics;

44 (6) Make legislative recommendations to the General Assembly and  
45 report annually, prior to April fifteenth, to the Governor summarizing  
46 the activities of the [commission] Office of State Ethics;

47 (7) Meet not less than once per month with the office's executive  
48 director and ethics enforcement officer; and

49 (8) The [commission] Office of State Ethics may enter into such  
50 contractual agreements as may be necessary for the discharge of its  
51 duties, within the limits of its appropriated funds and in accordance  
52 with established procedures.

53 Sec. 3. Subsection (e) of section 1-82 of the general statutes is  
54 repealed and the following is substituted in lieu thereof (*Effective from*  
55 *passage*):

56 (e) No person shall take or threaten to take official action against an  
57 individual for such individual's disclosure of information to the board  
58 or the general counsel, ethics enforcement officer or staff of the Office  
59 of State Ethics under the provisions of this part or section 1-101nn of  
60 the 2008 supplement to the general statutes, as amended by this act.  
61 After receipt of information from an individual under the provisions of  
62 this part or section 1-101nn of the 2008 supplement to the general  
63 statutes, as amended by this act, the Office of State Ethics shall not  
64 disclose the identity of such individual without such individual's  
65 consent unless the Office of State Ethics determines that such  
66 disclosure is unavoidable during the course of an investigation. No  
67 person shall be subject to civil liability for any good faith disclosure  
68 that such person makes to the [commission] Office of State Ethics.

69 Sec. 4. Subsection (a) of section 1-83 of the 2008 supplement to the  
70 general statutes is repealed and the following is substituted in lieu  
71 thereof (*Effective from passage*):

72 (a) (1) All state-wide elected officers, members of the General  
73 Assembly, department heads and their deputies, members of the  
74 Gaming Policy Board, the executive director of the Division of Special

75 Revenue within the Department of Revenue Services, members or  
76 directors of each quasi-public agency, members of the Investment  
77 Advisory Council, members and employees of the State Contracting  
78 Standards Board, members and employees of the State Properties  
79 Review Board, nonclerical employees in the unit of the Department of  
80 Public Works that is responsible for acquiring, leasing and selling real  
81 property on behalf of the state, state marshals and such members of the  
82 Executive Department and such employees of quasi-public agencies as  
83 the Governor shall require, shall file, under penalty of false statement,  
84 a statement of financial interests for the preceding calendar year with  
85 the Office of State Ethics on or before the May first next in any year in  
86 which they hold such a position. Any such individual who leaves his  
87 or her office or position shall file a statement of financial interests  
88 covering that portion of the year during which such individual held  
89 his or her office or position. The Office of State Ethics shall notify such  
90 individuals of the requirements of this subsection not later than thirty  
91 days after their departure from such office or position. Such  
92 individuals shall file such statement within sixty days after receipt of  
93 the notification.

94 (2) Each state agency, department, board and commission shall  
95 develop and implement, in cooperation with the Office of State Ethics,  
96 an ethics statement as it relates to the mission of the agency,  
97 department, board or commission. The executive head of each such  
98 agency, department, board or commission shall be directly responsible  
99 for the development and enforcement of such ethics statement and  
100 shall file a copy of such ethics statement with the Department of  
101 Administrative Services and the Office of State Ethics.

102 Sec. 5. Subsection (d) of section 1-88 of the general statutes is  
103 repealed and the following is substituted in lieu thereof (*Effective from*  
104 *passage*):

105 (d) Any person who knowingly acts in such person's financial  
106 interest in violation of section 1-84 of the 2008 supplement to the  
107 general statutes, 1-85, 1-86, [or] 1-86d or 1-101nn, as amended by this

108 act, or any person who knowingly receives a financial advantage  
109 resulting from a violation of any of said sections shall be liable for  
110 damages in the amount of such advantage. If the board determines  
111 that any person may be so liable, it shall immediately inform the  
112 Attorney General of that possibility.

113 Sec. 6. Subsection (c) of section 1-100b of the general statutes is  
114 repealed and the following is substituted in lieu thereof (*Effective from*  
115 *passage*):

116 (c) The Office of State Ethics shall make any finding under  
117 subsection (a) or (b) of this section in accordance with the same  
118 procedure set forth in section 1-93 for a finding by the [commission]  
119 board of a violation of part II of chapter 10.

120 Sec. 7. Subsection (c) of section 1-101nn of the 2008 supplement to  
121 the general statutes is repealed and the following is substituted in lieu  
122 thereof (*Effective from passage*):

123 (c) Any person who [violates] is found in violation of any provision  
124 of this section by the Office of State Ethics pursuant to section 1-82, as  
125 amended by this act, may be deemed a nonresponsible bidder by a  
126 state agency, board, commission or institution or quasi-public agency.

127 Sec. 8. Subsection (a) of section 4b-4 of the general statutes is  
128 repealed and the following is substituted in lieu thereof (*Effective from*  
129 *passage*):

130 (a) No employee of the Properties Review Board shall hold another  
131 state or municipal position, nor shall any such employee or any  
132 nonclerical employee in the unit in the Department of Public Works  
133 which is responsible for acquiring, leasing and selling real property on  
134 behalf of the state, be directly involved in any enterprise which does  
135 business with the state or be directly or indirectly involved in any  
136 enterprise concerned with real estate acquisition or development. Each  
137 member and employee of the State Properties Review Board shall file,  
138 with the board and with the Office of State Ethics, and each such

139 employee of the department shall file, with the department and with  
140 the Office of State Ethics, a financial statement indicating all sources of  
141 business income of such person in excess of one thousand dollars, and  
142 the name of any business with which he is associated, which shall have  
143 the same meaning as defined in section 1-79 of the 2008 supplement to  
144 the general statutes, as amended by this act. Such statement shall be a  
145 public record. Financial statements for the preceding calendar year  
146 shall be filed with the [commission] Office of State Ethics on or before  
147 April fifteenth of each year if the employee or member held such a  
148 position during the preceding calendar year.

149 Sec. 9. Subsection (a) of section 4e-5 of the 2008 supplement to the  
150 general statutes is repealed and the following is substituted in lieu  
151 thereof (*Effective January 1, 2009*):

152 (a) (1) The head of each state contracting agency shall appoint an  
153 agency procurement officer. Such officer shall serve as the liaison  
154 between the agency and the Chief Procurement Officer on all matters  
155 relating to the agency's procurement activity, including, but not  
156 limited to, implementation and compliance with the provisions of  
157 statutes and regulations concerning procurement and any policies or  
158 regulations adopted by the board, coordination of the training and  
159 education of agency procurement employees and any person serving  
160 on the Contracting Standards Advisory Council;

161 (2) The agency procurement officer shall be responsible for assuring  
162 that contractors are properly screened prior to the award of a contract,  
163 evaluating contractor performance during and at the conclusion of a  
164 contract, submitting written evaluations to a central data repository to  
165 be designated by the board and creating a project management plan  
166 for the agency with annual reports to the board pertaining to  
167 procurement projects within the agency. The agency procurement  
168 officer shall file a statement of financial interests, as described in  
169 section 1-83 of the 2008 supplement to the general statutes, as amended  
170 by this act.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	1-79(l)
Sec. 2	<i>from passage</i>	1-81(a)
Sec. 3	<i>from passage</i>	1-82(e)
Sec. 4	<i>from passage</i>	1-83(a)
Sec. 5	<i>from passage</i>	1-88(d)
Sec. 6	<i>from passage</i>	1-100b(c)
Sec. 7	<i>from passage</i>	1-101nn(c)
Sec. 8	<i>from passage</i>	4b-4(a)
Sec. 9	<i>January 1, 2009</i>	4e-5(a)

**GAE**      *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either chamber thereof for any purpose:

### **OFA Fiscal Note**

#### **State Impact:**

Agency Affected	Fund-Effect	FY 09 \$	FY 10 \$
Office of State Ethics	GF - Revenue Gain	Potential	Potential
Office of State Ethics	GF - Cost	Minimal	Minimal

Note: GF=General Fund

#### **Municipal Impact:** None

#### **Explanation**

The bill makes technical revisions to the Code of Ethics, requires additional individuals to file statements of financial interest, and adds violations of CGS 1-101nn to the list of violators from which the state can recoup damages. CGS 1-101nn prohibits consultants and contractors from 1.) using their authority under the contract or any confidential information acquired for financial gain for themselves or family members; 2.) accepting another state contract that would impair their independence of judgment or performance in the existing state contract; and 3.) accepting anything of value based on the understanding that your actions on behalf of the state would be influenced.

The contractors who are determined to have violated the law with respect to advancing their own financial interests would be liable to the State. The Office of State Ethics (OSE) would have the authority to recoup damages in the amount of the financial advantage gained during the contract from persons found to have violated 1-101nn. The revenue gain to the State is dependant upon the extent of the violations, which is not expected to be significant.

The bill also allows contractors to have a hearing before they are deemed non-responsible bidders. The OSE may bring an alleged



violation before a judge trial referee to hold a hearing to determine if an ethics violation was committed. It is estimated that the \$25,000 FY 09 appropriation included in sHB5021, as favorably reported by the Appropriations Committee, for the Judge Trial Referee account is sufficient to cover the \$220 per diems for the judge trial referees in the event that hearings occur.

***The Out Years***

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

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**OLR Bill Analysis****sSB 334*****AN ACT CONCERNING CERTAIN RECOMMENDATIONS OF THE  
OFFICE OF STATE ETHICS.*****SUMMARY:**

This bill makes several changes in the State Ethics Code. Specifically, it (1) accords contractors, potential contractors, and consultants due process before they are prohibited from bidding on state contracts because of alleged prior unethical behavior, (2) expands the classes of people subject to the code, and (3) requires agency procurement officers to file annual statements of financial interests with the Office of State Ethics (OSE).

The bill also makes technical changes by listing in the State Ethics Code several people currently required to file annual statements of financial interests, replacing references to the "State Ethics Commission" and "Connecticut Housing Authority" with their successor agencies, OSE or the Citizens Advisory Board, as appropriate, and the "State Housing Authority," respectively.

**EFFECTIVE DATE:** Upon passage, except that the requirement for agency procurement officers to file financial interest statements is effective on January 1, 2009.

**CONTRACTORS**

By law, state agencies, boards, commissions, institutions, and quasi-public agencies may treat as nonresponsible bidders and thus ineligible to win a state contract prequalified contractors, large state construction or procurement contractors, consultants on state contracts, and people seeking those positions if they:

1. solicit from public officials or state employees information that is not available to other bidders in order to gain a competitive advantage;
2. intentionally, willfully, or recklessly defraud the state by charging an agency, board, commission, institution, or quasi-public agency for work not performed or goods not provided;
3. intentionally or willfully violate or circumvent competitive bidding and ethics laws; or
4. provide or direct someone else to provide information on donated goods and services to a state or quasi-public agency, its procurement staff, or a member of a bid selection committee with intent to unduly influence the award of a state contract .

The law also allows state agencies, boards, commissions, institutions, and quasi-public agencies to treat consultants as nonresponsible bidders if they help plan a state contract and then they or the businesses with which they are associated serve as contractors, subcontractors, or consultants on the project, or as consultants to anyone seeking the contract.

The bill requires OSE to find a violation before these contractors or consultants may be deemed nonresponsible. This means OSE must investigate complaints of wrongdoing, offer respondents the opportunity for a hearing, and make a decision based on the evidence. The bill makes contractors and consultants who violate the law to advance their own financial interests liable for the amount of the financial advantage and requires OSE to immediately inform the attorney general of the violation.

### **OSE'S EXPANDED JURISDICTION**

The bill subjects Connecticut Transportation Strategy Board members, directors, and employees to the State Ethics Code and OSE's jurisdiction. This means these people are, among other things, prohibited from taking certain actions while employed by the board

and after they leave its employment. OSE has jurisdiction over them for the purpose of enforcing the code.

### **STATEMENTS OF FINANCIAL INTERESTS**

By law, certain officials must file with OSE, by May 1, annually, a statement of financial interests for the preceding calendar year. The law applies to state elected officials; department heads and their deputies; Gaming Policy Board members; quasi-public agency directors and members; Investment Advisory Council members, state marshals; State Contracting Standards Board and State Properties Review Board members and employees; nonclerical employees in the unit of the Department of Public Works responsible for acquiring, leasing, and selling real property on behalf of the state; and any executive branch members or quasi-public agency employees the governor specifies.

The bill expands the class of people required to file the statement to include the agency procurement officers that the law requires state contracting agencies to appoint by January 1, 2009.

### **COMMITTEE ACTION**

Government Administration and Elections Committee

Joint Favorable Substitute

Yea 11      Nay 0      (03/10/2008)